

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 PER-05 L-03 FS-01 DRC-01 RSC-01 /037 W
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R 090920Z OCT 73

FM AMEMBASSY ROME

TO USIA WASHDC

SECSTATE WASHDC 1200

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USIAC

E.O. 11652: N/A

SUBJECT: PENSION PAYMENT TO FORMER CONTRACT EMPLOYEE

REF: STATE 169905, 208495; ROME 6849

1. EMBASSY IS FACED WITH A SECOND CASE -- SIMILAR TO THAT OF RINALDI IN 1971 (SEE REFTELS) -- OF FORMER USIS CONTRACT EMPLOYEE WHO MAY BRING SUIT AGAINST USG UNLESS SETTLEMENT IS MADE TO PROVIDE HIM WITH PAYMENT IN LIEU OF PENSION. DOMENICO DINOTO WAS UNDER "NON-PERSONAL SERVICES" CONTRACT WITH USIS PALERMO FOR 22 YEARS TO DO CUSTODIAL AND CLEANING WORK ON USIS PREMISES. AS SUCH HE WAS NEVER COVERED BY CIVIL SERVICE RETIREMENT OR LOCAL SOCIAL SECURITY PLAN. HIS CONTRACT WAS NOT RENEWED IN FEBRUARY 1973, WHEN USIS LEFT PREMISES. HE IS NOW 67, HAS NO MEANS OF SUPPORT.

2. IN ATMOSPHERE OF INCREASINGLY STRINGENT LABOR LAWS, CONTRACTS SIMILAR TO THIS HAVE BEEN FOUND IN ITALIAN COURTS TO ESTABLISH AN EMPLOYER-EMPLOYEE RELATIONSHIP, AND TO PLACE UPON EMPLOYER NORMAL RESPONSIBILITIES FOR PROVISION OF SOCIAL BENEFITS.

3. THESE ARE THE PRESENT REALITIES, WHATEVER THE MERITS OF PAST JUDGMENTS THAT MAINTAINED HIS CONTRACT STATUS. DI NOTO CAN NOT ONLY MAKE STRONG LEGAL CASE BUT THE SITUATION RUNS THE RISK OF BECOMING WIDELY KNOWN AND EXPLOITED BY THOSE LOOKING FOR WAYS TO PUT USA IN BAD LIGHT.

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4. WHAT DINOTO IS ASKING IS THAT HE BE GIVEN PENSION COMPARABLE TO WHAT HE WOULD HAVE RECEIVED HAD HE BEEN ON REGULAR PAYROLL. EMBASSY BELIEVES HE WOULD BE WILLING TO SETTLE FOR CASH PAYMENT IN LIEU OF PENSION. WE RECOMMEND, THEREFORE, THAT USIA AUTHORIZE TO HIM LUMP-SUM PAYMENT OF 7,600,000 LIRE (APPROXIMATELY \$13,451) WHICH WOULD BE EQUIVALENT TO LOCAL PENSION OF 700,000 PER YEAR FOR TEN YEARS. THIS IS SIMILAR TO PROCEDURE FOLLOWED IN SETTLEMENT OF RINALDI CASE.

5. DINOTO WILL BE REQUIRED TO SIGN STATEMENT THAT HE RELEASES THE U.S. GOVERNMENT FROM ANY FURTHER CLAIM.

6. AN EARLY RESPONSE IS REQUESTED TO AVOID POTENTIAL UNPLEASANTNESS.
EXEMPT. BEAUDRY

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 09 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973ROME10801
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: ROME
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731042/aaaabevh.tel
Line Count: 76
Locator: TEXT ON-LINE
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 73 STATE 169905, 208495, 73 ROME 6849
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 17 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17-Sep-2001 by kelleyw0>; APPROVED <20-Nov-2001 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PENSION PAYMENT TO FORMER CONTRACT EMPLOYEE
TAGS: n/a
To: USIA SECSTATE WASHDC
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005